MINUTES
of the
SIXTH MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

November 20, 2015
Room 317, State Capitol
Santa Fe

The sixth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Senator Joseph Cervantes, vice chair, on November 20, 2015 at 9:44 a.m. in Room 317 of the State Capitol in Santa Fe.

Present
Rep. Jane E. Powdrell-Culbert, Chair
Sen. Joseph Cervantes, Vice Chair
Rep. David E. Adkins
Rep. Sharon Clahchischilliage
Sen. Lee S. Cotter
Rep. Bealquin Bill Gomez
Sen. Ron Griggs
Rep. Idalia Lechuga-Tena
Rep. Patricia A. Lundstrom
Rep. Andy Nunez
Sen. Michael Padilla
Sen. Nancy Rodriguez
Rep. Patricia Roybal Caballero
Rep. Patricio Ruiloba

Absent
Rep. Candy Spence Ezzell
Rep. Dona G. Irwin
Sen. Richard C. Martinez
Sen. John C. Ryan
Sen. William P. Soules
Rep. Monica Youngblood

Advisory Members
Rep. Alonzo Baldonado
Rep. Kelly K. Fajardo
Rep. Roberto "Bobby" J. Gonzales
Sen. Bill B. O'Neill
Sen. John Pinto
Rep. Debbie A. Rodella
Sen. Clemente Sanchez

Sen. Sue Wilson Beffort
Sen. Jacob R. Candelaria
Rep. George Dodge, Jr.
Rep. Brian Egolf
Sen. Stuart Ingle
Rep. Sarah Maestas Barnes
Sen. Mary Kay Papen
Sen. William H. Payne
Rep. Tomás E. Salazar
Rep. Sheryl Williams Stapleton
Rep. Don L. Tripp

Staff
Lisa Sullivan, Staff Attorney, Legislative Council Service (LCS)
Jeff Eaton, Research and Fiscal Policy Analyst, LCS
Tessa Ryan, Staff Attorney, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

<u>Friday, November 20</u>

Members of the committee introduced themselves. Senator Cervantes recognized Representative Lechuga-Tena as having replaced Representative Stephanie Maez in the legislature.

NMFA Board Report

Robert P. Coalter, chief executive officer, NMFA, and John E. McDermott, NMFA board chair, reported as follows on October NMFA activity.

Loan and grant activity. Loan and grant activity was more robust than usual. Nine loans, four of which were in an amount over $1 million, closed, and two Local Government Planning Fund grants were funded. Of the loans, six were funded through the Public Project Revolving Fund (PPRF), one was funded through the Water Project Fund and two were funded through the Colonias Infrastructure Project Fund.

Other activity. In other activity, the new loan-origination system is being implemented; the state-required audit was submitted to the state auditor ahead of the deadline; and all but one of the measures to correct internal structural weaknesses identified after the fraudulent-audit incident have been accomplished.

Mr. Coalter also reviewed the following, summarized in a handout accompanying the presentation: 1) statements of net financial position, revenues, expenses and operating budget; 2) loans and recent bond issues; and 3) measures to correct internal structural weaknesses.

<u>Questions and Discussion</u>

On questioning, the presenters and committee members addressed the following topics.

Program funding and terms. Mr. Coalter explained that: money for Local Government Planning Fund grants comes from the governmental gross receipts tax (GGRT); money for the Water Trust Board program comes from the Water Trust Fund; and 80% of the money for the drinking water program comes from the federal government, while 20% of that money consists of GGRT revenue. Mr. Coalter agreed to provide the interest rates for the PPRF loans that closed in October.

Statement of net position and statement of revenues and expenditures. Mr. Coalter and Robert Brannon, chief financial officer, NMFA, who was in the audience, clarified aspects of the NMFA's revenues and expenditures, citing the increase in loan volume as a key factor in several year-over-year changes.

Audits. Mr. McDermott and Mr. Coalter explained that the NMFA undergoes two audits: an external, financial audit and an internal, risk-assessment audit. The external audit is submitted to the state auditor. The NMFA contracts with a firm, which possesses a wide range of expertise, to perform the internal audit. That audit, which is designed to monitor day-to-day activities, categorizes and prioritizes structural risks to improve compliance and efficiency.

New Markets Tax Credit program loan. Marquita D. Russel, chief of programs, NMFA, indicated that a recent New Markets Tax Credit program loan, yet to be finalized, would support a medical center in Las Cruces. Senator Cervantes informed the committee that his family has financially supported the center.

Update on the Local Government Planning Fund

Ms. Russel updated the committee on the Local Government Planning Fund grant program. She named several program enhancements that the committee recently approved, including those to better assist smaller communities, lower-income communities and communities facing revenue declines. Ms. Russel reviewed a table showing a three-year snapshot of the types of plans funded through the program. On questioning, Ms. Russel noted that many federal funding agencies and the Water Project Fund program condition funding on the submission of an asset management plan.

NMFA Budget

Mr. Brannon summarized the NMFA's budget structure, finances and fiscal year (FY) 2015 and FY 2016 budgets as follows.

Budget structure and finances. No government agency need approve the NMFA's budget. Instead, the NMFA governing board reviews and approves it. The NMFA does not receive a state general fund appropriation to cover the expense of its operations, but rather uses payments from program participants for that purpose.

FY 2015 budget. The amounts budgeted in FY 2015 for personnel expenses, the internal audit and administrative and processing fee revenues exceeded the actual amounts for those categories. Higher-than-predicted activity in the drinking water, Water Project Fund, colonias infrastructure and Local Government Planning Fund grant programs contributed to increased grant revenue and expense.

FY 2016 budget. In developing its FY 2016 budget, the NMFA focused on three initiatives: 1) increasing public lending officers' travel and marketing a new New Markets Tax Credit program allocation; 2) investing more in servicing and online resources, including by adding an administrator in the NMFA's Water and Infrastructure Department and improving the NMFA's website; and 3) hiring a compliance officer and creating a compliance department to oversee regulation compliance and to monitor programs. The FY 2016 budget represents a 5.4% overall increase from the prior fiscal year. A significant increase is for two new employees to help pursue the second and third initiatives. The budget's increase in operating expenses will help carry out the third initiative.

Mr. Brannon reviewed tables showing: 1) comparisons between the FY 2015 and FY 2016 actual and projected budget figures; 2) the divisions of revenue and employees by program for FY 2016; and 3) a snapshot of current financial information. The bulk of revenue and the majority of employees for the FY 2016 budget year are dedicated to administering the PPRF, Water Project Fund, drinking water and colonias infrastructure programs. For the first quarter of the fiscal year, the NMFA has spent just over one-fourth of its budgeted annual revenue.

On questioning, Mr. Coalter indicated that the new employees would be in place soon, and Mr. Brannon indicated that the non-operating revenue decreases reflected in the financial snapshot compromise somewhat the NMFA's ability to make loans.

Minutes

On a motion made and seconded, the minutes of the committee's September meeting were approved without objection.

Update on Loan Program Funding

Mr. Brannon elaborated as follows on the NMFA's project financing programs.

Infrastructure and capital equipment project financing: the PPRF, Local Government Planning Fund and colonias infrastructure programs.

- The PPRF program, NMFA's flagship program created in 1992, is marked by: standard and — for lower-income borrowers, below-market — interest rate loans; an annual legislative authorization bill; high bond ratings, which are particularly important in the current financial environment; a wide variety of participating entity types; providing help to participants in the areas of credit and debt capacity analysis, loan structuring and refinancing; and a contingent liquidity account, which helps ensure fund availability.
- The Local Government Planning Fund program, created in 2002, offers planning grants. Most grants are for planning water and wastewater projects, but some are for other types of projects.
- The colonias infrastructure program, created in 2010, is marked by funding from a 5% annual senior severance tax bond allocation and federal fund leveraging.

Water project financing: the Drinking Water State Revolving Loan Fund, Water Project Fund and Acequia Project Fund programs.

- The state's Drinking Water State Revolving Loan Fund program, created in 1998, provides low-cost assistance for construction of and improvements to drinking water facilities. The NMFA partners with the Department of Environment to administer the program. Through that partnership, the department produces a list of priorities for funding, and the NMFA accepts applications in the order listed. The program receives funding from federal awards, state matches, loan interest and loan repayments.
- The Water Project Fund program, created in 2002, is marked by: grants and low-cost loans for five types of water projects; funding from an annual Water Trust Fund distribution and an annual 10% senior severance tax bond allocation; a 16-member board; and a requirement that projects be legislatively authorized.
- The Acequia Project Fund program, created in 2004, makes grants for project planning as recommended by the Water Trust Board. The program is funded through private donation.

Community facilities and economic development project financing: the Primary Care Capital Fund, Behavioral Health Capital Fund, New Markets Tax Credit, Smart Money Loan Participation and Collateral Support Participation programs.

- The Primary Care Capital Fund program, created in 1994, offers 3% interest rate loans for equipment, land and buildings to nonprofit primary care clinics, school-based health centers and telehealth sites that have relatively low asset levels and that are in rural and medically underserved communities. The NMFA partners with the Department of Health to administer the program. Up to 20% of annual loan principal and interest is forgiven in exchange for services rendered to indigent patients.
- The Behavioral Health Capital Fund program, created in 1994, is like the Primary Care Capital Fund program, but for small behavioral health clinics. The NMFA partners with the Human Services Department to administer the program. Clinics that have assets of $10 million or less and that are in rural and medically underserved communities qualify for the program's capital needs financing. The fund was capitalized with revenue from cigarette tax bonds.
- The state's New Markets Tax Credit program, which an advisory board oversees and which provides financing in federally designated low-income communities, was established in 2006 through the Statewide Economic Development Finance Act (SWEDFA). The NMFA partners with New Mexico Community Capital in operating Finance New Mexico, LLC; that corporation has received federal appropriations to administer the program.
- The Economic Development Revolving Fund consists of state and federal sub-accounts, which have received approximately $5 million in net state appropriations and $13 million in federal appropriations.

- The Smart Money Loan Participation Program, also called the Smart Money Initiative, was established in New Mexico in 2003 through the SWEDFA. The program allows the NMFA to buy less-than-half interests in loans made by banks to for-profit and nonprofit private entities. The loans are made in exchange for the borrowers' agreement to create one or more jobs. The Economic Development Department helps determine project eligibility. The requirement that the program's projects be legislatively authorized has been suspended until June 30, 2016.
- The Collateral Support Participation Program is akin to the Smart Money program in origin and design. In it, too, the NMFA partners with the Economic Development Department. The program helps fill financing gaps left by the Smart Money program and uses private money to leverage federal money.

Mr. Brannon reviewed a table showing available funding by program and a table showing, for each program, historical information on loans closed and loan values.

Questions and Discussion

On questioning, NMFA staff and committee members addressed the following topics.

Colonias infrastructure program. Speaking about the colonias infrastructure program, Ms. Russel indicated that: 1) in 2015, the legislature transferred money out of the Colonias Infrastructure Project Fund, thereby reducing the amount available for funding; 2) last year, about $16 million was available to fund projects; 3) the corresponding amount for the coming year has not been determined; and 4) program money is consistently utilized.

Acequia Project Fund program. Discussing the Acequia Project Fund program, Ms. Russel said that: 1) the Healy Foundation, which has a strong interest in water issues and acequias, provided the only funding the Acequia Project Fund has received; 2) program policies were developed largely through rule; 3) only about $25,000 remains in the fund; 4) the program makes grants exclusively; and 5) the legislature could appropriate money to the fund. Ms. Russel and Mr. Coalter agreed to provide information on: 1) the percentage of Water Project Fund program money used for acequias; 2) the number and names of acequia projects funded in the past five years; and 3) recommended options for earmarking money to generate more money for the fund.

Loan participation programs and the PPRF. Responding to a member's concern about the lack of vacant commercial space in certain parts of the state, Ms. Russel clarified that federal rules prohibit Smart Money loan money from being used to build facilities for speculative lease or purchase, but that a local government could use the PPRF program for that purpose or for a building expansion. Ms. Russel also clarified that, with federal money, the NMFA can take a subordinated position in a loan, but with state money, the NMFA's position must be equal to that of the bank. The amount of a loan participation program loan is based on factors that include the loan term, project location and lien structure. Zach Dillenback, chief lending officer, NMFA, who was in the audience, said that the PPRF program has been used in many cases to provide financing to supplement Public School Facilities Authority financing.

Program cycles. Mr. Coalter explained that some programs, like the PPRF, are offered year-round, while others, like the colonias infrastructure program and the Water Project Fund program, have annual application cycles. Ms. Russel added that the Department of Environment produces a quarterly priority list for the drinking water program and that several of the water infrastructure financing program cycles were designed to overlap for improved access to funding.

Update on Economic Development Revolving Fund Funding

Ms. Russel and John Brooks, director of commercial lending, NMFA, gave an update on the Economic Development Revolving Fund, which is used to administer the Smart Money Loan Participation and Collateral Support Participation programs. Ms. Russel noted that, unlike with federally appropriated money, the NMFA is more careful with its use of state-contributed money for these programs, since the Anti-Donation Clause of the Constitution of New Mexico limits the allowable uses of state money. She reiterated that the Smart Money program allows the NMFA to purchase interests in bank loans to for-profit and nonprofit borrowers and that the Collateral Support program requires the state to leverage $10.00 in private money for every federal dollar loaned. Ms. Russel reviewed tables showing the status of loans made in both programs. She noted that the recession interfered with the timely repayment of some Smart Money program loans, but there have been no such breaches by borrowers in the Collateral Support program. She also reviewed a table outlining Collateral Support program loans by type, noted that the bulk of program money is used for construction loans and pointed out that the law suspending the legislative authorization requirement has helped the program.

<u>Questions and Discussion</u>

On questioning, the presenters and committee members addressed the following topics.

Plaza Hotel loan. Ms. Russel elaborated on the status of the Plaza Hotel loan, the only loan participation program loan, she said, that has been defaulted on. After the hotel went into foreclosure, the lending bank made the winning bid on the hotel and then sold it. Meanwhile, efforts are being made to collect from the guarantors the difference between the bid price and the outstanding debt. In all, about half the loan has been repaid, and the NMFA will likely take a small loss on the deal, which the NMFA will write off as bad debt.

Construction loans. Ms. Russel indicated that the NMFA has made six Collateral Support program loans for construction projects, which tend to be short-term, non-refinanced loans.

Program highlights. Ms. Russel said that the loan participation programs feature interest rates generally lower than banks' rates and no fees — qualities that make the programs attractive to borrowers.

Update on Applications for Water Project Fund Funding

Ms. Russel gave an overview as follows of the Water Project Fund program status. Applicants' notice of intent to apply for funding was due on November 6. Applications are due on November 23. The Water Trust Board will meet on December 2 and 3 to hear project presentations. On January 7, 2016, the board will select projects to be included in the legislative authorization bill. That bill's project list will be culled more than prior years' lists. Ms. Russel directed the committee's attention to a list of projects whose sponsors have filed notices of intent.

Questions and Discussion

On questioning, Ms. Russel and committee members addressed the following topics.

Appropriations from the Water Project Fund. Ms. Russel indicated that, in the last year, the legislature appropriated money from the Water Project Fund for purposes other than those that the Water Trust Board had previously determined that money in the fund would be used for. The amount the board originally understood to be available for water projects will be made up for with revenue from other sources, including loan proceeds, she said.

Application cycle and project list. A member expressed disappointment that, despite the committee's having repeatedly requested that it be presented during the interim with a bill featuring a culled list of water infrastructure projects, the list will not be available this year until January 7, 2016 — after the last committee meeting. Citing as evidence of those requests a handout produced by committee staff and containing Water Project Fund program-related portions of handouts and minutes from meetings dating to 2011, the member stressed that the issue has been recurrent. The member commented that the date planned for a culled list to become available is only days before the session begins. Getting the list so late, the member remarked, will make it difficult for the legislature to authorize the bill because it will not know further in advance the projects listed in it.

Ms. Russel responded that, this year, the application process was modified to accommodate the needs of entities that have historically struggled with meeting the program's application requirements. A culled list, she said, will not be ready until January 7 in part because of those changes. A member acknowledged that, by requesting program changes, the committee contributed to the timing of this year's list's readiness. The member also expressed the hope that there be no such delay in future years.

The committee discussed options for addressing the delay in readiness of a culled project list, including: meeting again in January; not passing an authorization bill this year; having committee staff disseminate the list to members promptly after it is prepared; and asking the Legislative Finance Committee, which will meet shortly before the session, to review the culled list in the NMFA Oversight Committee's place. A member commented that experience has shown that, even without an enacted approved-project bill, the board will use available money to fund previously approved, vaguely identified projects. Another member remarked that the

NMFA Oversight Committee, not the Legislative Finance Committee, is charged with reviewing the project list.

The committee resolved to request that the New Mexico Legislative Council approve an additional meeting shortly before the session for the purpose of reviewing the culled project list bill.

Project funding. Ms. Russel said that the Water Trust Board routinely selects projects for legislative authorization whose combined cost exceeds the amount projected to be available for project funding. That way, a project that loses the need for funding or is deemed ineligible can be replaced by another project, and all available funding can be utilized.

Request for Endorsement of Proposed Legislation

Mr. Coalter, Ms. Russel and Mr. Dillenback presented bill drafts for the committee to consider for endorsement.

PPRF project authorization (.202216.2SA). Mr. Dillenback noted that the law requires a project whose cost is $1 million or more to have legislative authorization, which lasts three years, for the NMFA to finance it. He also said that the project list presented to the committee at its previous meeting was more encompassing than the list presented. In the month since that meeting, NMFA staff sought and received clarification on which entities maintained interest in pursuing PPRF program financing.

On questioning, Mr. Dillenback explained that a PPRF loan's interest rate is driven by a variety of factors, including loan term and structure, market rates and the borrower's degree of disadvantage. He also said that, depending on a school district's characteristics, it might be advantageous for school districts to pursue infrastructure financing through the PPRF program. Further, the recently enacted program rule changes and the future declines in severance tax bonding capacity will likely draw more school district participants to the PPRF program.

A member expressed disagreement with the inclusion of the Spaceport Authority in the PPRF project authorization list, remarking that the Spaceport Authority is subject to too little oversight: without having to seek approval from any higher body or from voters, the Spaceport Authority may freely borrow money to be repaid by revenue from the gross receipts tax. Mr. Dillenback noted that: the Spaceport Authority's previous loan authorization is set to expire; the loan would be repaid with revenue from the spaceport gross receipts tax and would be used to construct the southern road and welcome center; inclusion in the list does not constitute a guarantee of funding; the NMFA would decline to make the loan if it determined that such lending were imprudent; and "debt refinance" in the authorization language of the Spaceport Authority project means that, within PPRF program rules, the Spaceport Authority would be able to restructure its debt obligations.

The committee discussed the possibility of endorsing a version of the bill amended to remove Item 76, the authorization for a loan to the Spaceport Authority. Members pointed out that the exclusion would prompt the convened legislature to discuss the propriety of authorizing the project, thereby allowing scrutiny of the project's merits in a public forum. Arguing that the item should not be removed, a member reasoned that: 1) allowing the Spaceport Authority to restructure its debt would be beneficial; and 2) a safeguard, the NMFA's further vetting, would yet remain. Senator Cervantes informed the committee that the Spaceport Authority leases a building from a building entity in which he has a minority interest, and he expressed his belief that voting on a motion to endorse the bill would not constitute an ethical breach.

With one member in opposition, the committee moved to endorse the bill with the omission of Item 76. Representative Lundstrom and Senator Cervantes agreed to sponsor the bill.

Public body ability to delegate decision-making authority on public security sales (.202187.1SA). Mr. Coalter reported that a 2015 version of this bill passed the senate and then died in the house. A member noted that the bill faced no debate or opposition in the senate. Mr. Coalter added that enacting the bill would bring New Mexico in line with other states and that not having this measure in place has caused, in at least the City of Albuquerque's case, lost revenue.

With one member in opposition, the committee endorsed the bill. Senator Cervantes agreed to sponsor it.

Extended suspension of the requirement for legislative authorization of non-state SWEDFA projects (.202190.3SA). Ms. Russel explained some technical aspects of the bill. She added that enacting the measure was important for the NMFA to be able to meet federal leveraging requirements applicable to the program.

With no opposition, the committee endorsed the bill. Representative Adkins agreed to sponsor it.

Appropriation for $3 million to the Local Government Planning Fund (.202188.1SA). Ms. Russel reported that this bill routinely comes before the legislature. The increase in amount that is requested for transfer from the PPRF to the Local Government Planning Fund is in response to the increase in demand for money from the latter fund.

With no opposition, the committee endorsed the bill. Representative Gonzales agreed to sponsor it.

Appropriation for $1.8 million for drinking water system financing (.202189.1SA). Ms. Russel explained that this bill routinely comes before the legislature. It appropriates money to comply with a federal-match requirement.

With no opposition, the committee endorsed the bill. Representative Rodella agreed to sponsor it.

Adjournment

There being no further business before the committee, the sixth meeting of the NMFA Oversight Committee adjourned at 3:20 p.m.